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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/516,919	12/07/2004	Jorg L Schulte	LU6022	8713
34872 7590 02/06/2007 BASELL USA INC. INTELLECTUAL PROPERTY 912 APPLETON ROAD ELKTON, MD 21921			EXAMINER NAZARIO GONZALEZ, PORFIRIO	
			ART UNIT	PAPER NUMBER
			1621	
SHORTENED STATUTORY PERIOD OF RESPONSE		MAIL DATE	DELIVERY MODE	
3 MONTHS		02/06/2007	PAPER	

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/516,919

Applicant(s)

SCHULTE ET AL.

Examiner

Porfirio Nazario-Gonzalez

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 November 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 12-21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 12-21 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Amendment

1. Applicant's amendment filed November 13, 2006 overcomes the rejection to claim 9 under 35 U.S.C § 112, second paragraph. Accordingly, the Examiner withdraws said rejection.
2. Newly submitted claims 12-21 overcomes the rejection to claims 1-3 and 7-11 (now cancelled) under 35 U.S.C § 102(b)/103 as anticipated or, in the alternative obvious over U.S. Patent No. 7,739,366. Accordingly, the Examiner withdraws said rejection.

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 12-21 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by EP 1 074 557 A2 (published 07 February 2001). The '557 EP patent discloses a transition metal compound of the formula (II), a ligand system of the formula (IIa), a catalyst system and its use for the polymerization of olefins. See particularly the examples and claims 6-18. Note that the '557 further discloses the compounds 4(4'-tert-butylphenyl)indene, dimethylsilanediyl(2-methyl-4(4'-tert-butylphenyl)indene)(4(4'-tert-butylphenyl)indene), dimethylsilanediyl(2-methyl-thiapentalene)(4(4'-tert-

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butylphenyl)indene), their corresponding metal complexes, catalyst systems and polymerization processes. See examples 4, 5, 10, 12, 17, 19, 25, 27 and 29.

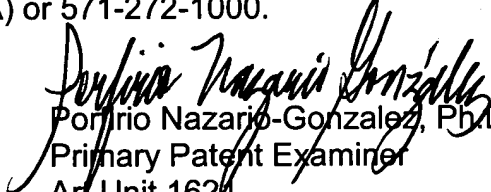
3. Claims 12-21 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by U.S. Patent No. 6,057,408. The '408 patent discloses rac-Dimethylsilylbis(2-methyl-phenylindenyl)zirconium dichloride, rac-Dimethylsilylbis(2-methyl-4-(2-naphthyl)indenyl)zirconium dichloride, 2-methyl-7-(1-naphthyl)indene, dimethylbis(2-methyl-4-(1-naphthyl)indenyl)silane, 2-methyl-7-phenylindene, dimethylbis(2-methyl-4-phenylindenyl)silane, catalyst compositions containing the above metal complexes and polymerization processes using said catalyst compositions. See examples.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Porfirio Nazario-Gonzalez whose telephone number is 571-272-0641. The examiner can normally be reached on Mon.-Fri. (9:30 AM - 6:00 PM).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thurman K. Page can be reached on 571-272-0602. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


Porfirio Nazario-Gonzalez, Ph.D.
Primary Patent Examiner
Art Unit 1621

PNG

February 3, 2007